



## State of Louisiana Bid Invitation

### Special Terms and Conditions for RFX 3000006253

#### **BID DELIVERY INSTRUCTIONS FOR STATE PROCUREMENT**

Bidders are hereby advised that the U.S. Postal Service does not make deliveries to our physical location:

Bids may be mailed through the U.S. Postal Service to our box at:

Office of State Procurement  
P O Box 94095  
Baton Rouge, LA 70804-9095

If delivering by U.S. Postal Service to the P.O. Box listed above, please allow sufficient time for the mail to then be transmitted to the Office of State Procurement. The Office of State Procurement must receive the bid by the bid opening date and time specified.

Bids may be delivered by hand or courier service to our physical location as follows:

Office of State Procurement  
Claiborne Building, Suite 2-160  
1201 North Third Street  
Baton Rouge, LA 70802

Bidder should be aware of security requirements for the Claiborne Building and allow time to be photographed and presented with a temporary identification badge.

Bidder is solely responsible for ensuring that its courier service provider makes inside deliveries to our physical location. The Office of State Procurement is not responsible for any delays caused by the bidder's chosen means of bid delivery. Bidder is solely responsible for the timely delivery of its bid. Failure to meet the bid opening date & time shall result in rejection of the bid.

Publicizing Awards: In accordance with L.A.C.34:V:335; unsuccessful bidders will be notified of the award provided that they submit with their bid a self-addressed stamped envelope requesting this information.

#### **\*\*ATTENTION: \*\***

Receipt of a solicitation or award cannot be relied upon as an assurance of receiving future solicitations. In order to receive notifications of future solicitations from this office, you must enroll in the proper category in LaGOV at the following website:

[https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest\\_user=self\\_reg](https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest_user=self_reg)

**Terms and Conditions.** This solicitation contains all terms and conditions with respect to the commodities herein. Any vendor contracts, forms, terms, or other materials submitted with bid may cause bid to be rejected.

**Administrative Fee or Rebate:** The State shall be due a minimum 1 % administrative fee or rebate to be payable to the State of Louisiana, Office of State Procurement in exchange for the management and facilitation of the contract(s) resulting from this solicitation. The calculation of the administrative fee or rebate includes any entity receiving contract pricing resulting from the awarded contracts. The administrative fee or rebate shall be submitted quarterly and shall be based on the total net (gross sales minus returns, credits and deductions) sales made to entities located in the State of Louisiana under the contract. The check is to be made payable to the State of Louisiana, Division of Administration, Office of State Procurement. The check is to be mailed to the Office of State Procurement, Attn: OSP Receivables Specialist, either through the U.S. Postal Service to our box at: P. O. Box 94095, Baton Rouge, LA 70804-9095; or through a courier service to our physical location at: 1201 North 3<sup>rd</sup> Street, Suite 2-160, Baton Rouge, LA 70802. The calculation of the administrative fee or rebate shall begin immediately upon execution of the contract and payment shall be made in accordance with the following schedule:

<u>Quarter</u>	<u>Payment Period</u>	<u>Payment Due Date</u>
First Quarter	July 1 through September 30	October 31
Second Quarter	October 1 through December 31	January 31
Third Quarter	January 1 through March 31	April 30
Fourth Quarter	April 1 through June 30	July 31

IF VENDOR/CONTRACTOR IS OFFERING A GREATER ADMINISTRATIVE FEE OR REBATE THAN SPECIFIED ABOVE, PLEASE INDICATE THE PERCENTAGE HERE: \_\_\_\_\_%

**Contract Usage Reports:** The Contractor shall submit detailed contract usage reports quarterly to the Office of State Procurement Contracts Manager for the contract in accordance with the below schedule. Initiation and submission of the quarterly reports to the Office of State Procurement is the responsibility of the Contractor without prompting or notification by the Office of State Procurement Contracts Manager. If these reports are not submitted in a timely manner, the Office of State Procurement shall have the right to terminate the contract.

The specific usage report content, scope, and format requirements is available on the Office of State Procurement website under Purchasing/Online Forms/Vendor Forms:

<http://www.doa.la.gov/pages/osp/vendorcenter/forms/index.aspx>.

In addition, the person's name who compiles the report and their contact information shall be provided. The Office of State Procurement reserves the right to request copies of any purchase orders issued against the contract.

The usage reports shall be submitted utilizing this format or an equivalent format that has been pre-approved by the Office of State Procurement.

Schedule for submittal of usage reports:

<u>Quarter</u>	<u>Reporting Period</u>	<u>Due Date</u>
First Quarter	July 1 through September 30	October 31
Second Quarter	October 1 through December 31	January 31
Third Quarter	January 1 through March 31	April 30
Fourth Quarter	April 1 through June 30	July 31

**Invoices:** Invoices will be submitted by the contractor to the using agency and the invoice shall refer to the delivery ticket number, delivery date, purchase order number, quantity, unit price, and delivery point. A separate invoice for each order delivered and accepted shall be submitted by the Contractor in duplicate directly to the accounting department of the using agency. Invoices shall show the amount of any cash discount and shall be submitted on the contractor's own invoice form.

**Acceptance:** Unless otherwise specified, bids on this contract will be assumed to be firm for acceptance for a minimum of 60 days. If accepted, prices must be firm for the specified contract period.

**Vendor's Forms:** The purchase/release order is the only binding document to be issued against this contract. Signing of vendor's forms is not allowed.

**Cancellation:** The State of Louisiana reserves the right to cancel the contract with thirty (30) days written notice.

**Contract Revisions.** Request for all revisions to the contract must be submitted in writing by the representative authorized to sign the execution of the bid sheet, unless otherwise stated herein:

I, \_\_\_\_\_, duly authorized to execute the contract, hereby delegate the following person/persons to submit written requests for revisions to the contract:

- 1) \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)
- 2) \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)
- 3) \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

Briefly state any restrictions as to type of revisions delegates may request.

COMMENT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Requests for revisions to the contract shall be addressed to the Office of State Procurement and shall refer to the contract item number (with brief explanation of request). Distributor vendor changes, price reductions and item deletions may be requested at any time during the contract period.

New item additions will be considered only on the anniversary date of the contract. Exceptions to this will be allowed only when the Office of State Procurement has determined additions will be of substantial benefit to the State and will justify the time, effort and cost required to make such additions.

Contractor must immediately notify the Office of State Procurement when any dealer on the contract is terminated, relocated, or added. All orders placed with dealers prior to receipt of such notification to the Office of State Procurement must be honored.

Revisions will become effective only upon approval by the Office of State Procurement.

**Cooperative Purchase.** Note: Response to this section will not affect the bid award.

Political Subdivisions of the State, Quasi State Agencies, and External Procurement Units (described below), may be permitted to purchase from contracts made by the Office of State Procurement. The bidder may, at its option, permit political subdivisions of the State, Quasi State Agencies, and External Procurement Units to purchase from any contract awarded against this solicitation. Please check all that apply:

\_\_\_\_\_ Bidder permits any contract awarded to apply to Quasi State Agencies or other Political Subdivision of the State.

\_\_\_\_\_ Bidder permits any contract awarded to apply to Agencies of the United States Government.

\_\_\_\_\_ Bidder permits any contract awarded to apply to other buying organizations (other than the United States Government), not located in this State which, if located in this State, would qualify as a public procurement unit.

**Louisiana Preference:** In accordance with Louisiana Revised Statutes 39:1604, a preference not to exceed ten per cent (10%) may be allowed for products manufactured, produced, grown, or assembled in Louisiana of equal quality.

Do you claim this preference? Yes\_\_\_\_\_

Specify line number(s): \_\_\_\_\_

Specify location within Louisiana where product is manufactured, produced, grown, assembled, or further processed.

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(NOTE: If more space is required, include on separate sheet.)

Do you have a Louisiana Business workforce? Yes\_\_\_\_\_ No\_\_\_\_\_

If so, do you certify that at least fifty per cent (50%) of your Louisiana Business Workforce is comprised of Louisiana residents? Yes\_\_\_\_\_ No\_\_\_\_\_

Failure to specify above information may cause elimination from preferences.

### **Procurement of United States Products:**

In accordance with the provisions of R.S. 39:1604.7, in the event a contract is not entered into for products purchased under the provisions of R.S. 39:1604, each procurement officer, purchasing agent, or similar official who procures or purchases materials, supplies, products, provisions, or equipment under the provisions of this Chapter may purchase such materials, supplies, products, provisions, or equipment which are manufactured in the United States, and which are equal in quality to other materials, supplies, products, provisions, or equipment, provided that all of the following conditions are met:

(1) The cost of such items does not exceed the cost of other items which are manufactured outside the United States by more than five (5) percent.

(2) The vendor of such items agrees to sell the items at the same price as the lowest bid offered on such items.

(3) In cases where more than one (1) bidder offers items manufactured in the United States which are within five percent of the lowest bid, the bidder offering the lowest bid on such items is entitled to accept the price of the lowest bid made on such items.

(4) The vendor certifies that such items are manufactured in the United States.

For the purposes of this preference,

(1)"Manufactured in the United States" means produced by a process in which the manufacturing, final assembly, processing, packaging, testing, and any other process that adds value, quality, or reliability to assembled articles, materials, or supplies, occur in the United States.

(2) "United States" means the United States and any place subject to the jurisdiction of the United States.

Do you claim this preference? YES\_\_\_\_\_ NO\_\_\_\_\_

Specify line number(s):\_\_\_\_\_

Specify location within the United States where this product is manufactured:

\_\_\_\_\_  
(NOTE: If more space is required, include on separate sheet.)

**Late Payments.** Interest due by a State Agency for late payments shall be in accordance with La. R.S. 39:1695 at the rates established in La. R.S. 13:4202.

**Electronic Vendor Payment Solution.** In an effort to increase efficiencies and effectiveness as well as be strategic in utilizing technology and resources for the State and Vendors, the State intends to make all payments to Vendors electronically. The LaCarte Procurement Card will be used for purchases of \$5,000 and under, and where feasible, over \$5,000. Vendors will have a choice of receiving electronic payment for all other payments by selecting the Electronic Vendor payment Solution (EVP) or Electronic Funds Transfer (EFT). If you receive an award and do not currently accept the LaCarte Card or have not already enrolled in EFT, you will be asked to comply with this request by choosing one of the following three (3) options. You may indicate your acceptance below.

### **LaCARTE**

The LaCarte Procurement Card uses a Visa card platform. Vendors receive payment from State Agencies using the card in the same manner as other Visa card purchases. Vendors cannot process payment transactions through the credit card clearinghouse until the purchased products have been shipped or received or the services performed.

For all Statewide and Agency Term Contracts:

-Under the LaCarte program, purchase orders are not necessary. Orders must be placed against the net discounted products of the contract. All contract terms and conditions apply to purchases made with LaCarte.

-If a purchase order is not used, the vendor must keep on file a record of all LaCarte purchases issued against the contract during the contract period. The file must contain the particular item number, quantity, line total and order total. Records of these purchases must be provided to the Office of State Procurement upon request.

### **EVP**

EVP method converts check payments to Visa credit card thereby streamlining payments to your organization. Participants receive a credit card account number with unique security features. This card will have \$0 available funds until an invoice is approved for payment. As payments are approved, electronic remittance notifications are sent via mail along with approval to charge the card for that amount. EVP requires no change to current invoice procedures; it is secure, and does not require your bank information.

## EFT

EFT payments are sent from the State's bank directly to the Payee's bank each weekday. The only requirement is that you have an active checking or savings account at a Financial Institution that can accept Automated Clearing House (ACH) credit files and remittance information electronically. Additional information is available at <http://www.doa.louisiana.gov/osrap/eftforwebsite.pdf>. To facilitate this payment process, you will need to complete and return both EFT enrollment forms found at <http://www.doa.louisiana.gov/erp/pdfs/lagov%20ap-03%20-%eft%20vendor%20enrollment%20form.pdf> and <http://www.doa.louisiana.gov/OSRAP/EFTforWebsite.pdf>.

If an award is made to your company, please check which option you will accept or indicate if you are already enrolled.

PAYMENT TYPE	WILL ACCEPT	ALREADY ENROLLED
LaCARTE	_____	
EVP	_____	_____
EFT	_____	_____

\_\_\_\_\_  
Printed Name of Individual Authorized

\_\_\_\_\_  
Authorized Signature for Payment Type Chosen

\_\_\_\_\_  
Date

\_\_\_\_\_  
Email Address and Phone Number of Authorized Individual

**Sample(s) may be required.** When requested, samples must be furnished at vendor's expense, and received not later than 10 days after request. Packages should be clearly labeled with the file number. Each individual sample within the package must be clearly labeled with the bidder's name, manufacturer's brand name and number, file number and item reference. Submit only one bid proposal's samples per box. Samples of successful bidder will be retained at the Office of State Procurement or the using agency for the purpose of receiving merchandise. Any part of merchandise received that does not meet the quality standards and construction of the sample will be rejected and returned at vendor's expense.

The purchasing agency reserves the right to inspect and test the delivered merchandise for compliance with the bid specification. If merchandise fails to meet the specifications, the cost of test and inspection will be paid by the contractor. If the merchandise is in compliance, cost of all test will be paid by the using agency.

**Delivery.** Deliver to any agency of the State government eligible by State statute and/or authorized to purchase from the contract. Delivery is to be made upon the issuance of a purchase order.

Contractors will have access to an adequate supply of all items in order to meet deliveries of not more than ninety (90) business days.

**Payment.** Payment will be made on the basis of unit price as listed in the contract; such price and payment will constitute full compensation for furnishing and delivering the contract commodities. In no case will the state agency refuse to make partial payments to the Contractor although all items have not been delivered. This payment in no way relieves the contractor of his responsibility to effect shipment of the balance of the order. Payment will be to vendor and address as shown on order.

**Vendor List.** The bidder who signs the bid will be designated as prime contractor on any contract resulting from this solicitation. If additional distributor vendors are authorized to receive orders for items contained in said contract, the bidder should submit with the bid, a list of those additional authorized distributors including the complete business address. The prime contractor will be responsible for the actions of any distributor vendors listed.

**Price Reductions.** Whenever there is a reduction in price, which is lower than the contract price, offered to similarly situated customers contracting for the same period and under the same terms and conditions, said reduction must be presented directly to the director of state procurement. No price reduction on a statewide contract may be offered to an agency unless that reduction is offered to all agencies.

**Certification of No Federal Suspension or Debarment.** By signing and submitting any bid for \$25,000 or more, the bidder certifies that their company, any subcontractors, or principals are not suspended or debarred by the General Services Administration (GSA) in accordance with the requirements in "Audit Requirements in Subpart F of the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Formerly OMB Circular A-133). A list of parties who have been suspended or debarred can be viewed via the internet at <http://www.sam.gov>.

**Contractor Utilization.** By submitting a bid, bidder acknowledges that he agrees to the following terms that will be a part of any resulting contract(s) from this solicitation:

The contract has been designated as a Louisiana Pricing Schedule ("LAPS") contract. The State intends to use the following process before placing orders under the contract, and the contractor explicitly understands and agrees to the use of this process before accepting orders under the contract. Where multiple LAPS contracts exist for functionally equivalent products and/or services and the procurement is above \$25,000, all eligible users of these contracts will utilize the following procedures:

- 1) Prepare a Request for Responses (an informal process used to make a best value determination) that include, if applicable:
  - A) Performance – based statement of work that includes such things as
    - The work to be performed
    - Location of work
    - Period of performance
    - Deliverable schedule
    - Applicable performance standards
    - Acceptance criteria
    - Any special requirements (e.g., security clearances, special knowledge, etc.)
    - The products required (using a generic description of products and functions whenever possible.)
  - B) If necessary or applicable, a request for submittal of a project plan for performing the task and information on the contractor's experience and/or past performance performing similar tasks.

- C) A best value determination is one that considers, in addition to underlying contract pricing, such factors as:
    - Probable life of the item selected
    - Environmental and Energy efficiency considerations
    - Technical qualifications
    - Delivery Terms
    - Warranty
    - Maintenance availability
    - Administrative costs
    - Compatibility of an item within the user's environment
    - User's familiarity with the item or service
  - D) A request for submittal of a firm-fixed total price for labor and/or products which are no higher than the prices in the LAPS contract.
- 2) Submit the Request for Response to at least three (3) LAPS contract holders, whenever available, offering functionally equivalent products and/or services that will meet the agency's needs.
  - 3) Evaluate responses and select the Contractor to receive the order:
    - A) After responses have been evaluated, the order shall be placed with the contractor that represents the best value that meets the Agency's needs. The ordering agency should give preference to small-entrepreneurships or small and emerging businesses when two or more contractors can provide the services and/or products at the same firm-fixed price.
    - B) The ordering agency shall document in the procurement file the evaluation of the contractor's responses that formed the basis for selection. The documentation shall identify the contractor from which the services and/or products were purchased, the services and/or products purchased, and the cost of the resulting purchase order.
    - C) Purchases shall not be artificially divided to avoid the requirements of this section when recurring requirements for same products are known.

**Brand Name Contracts.** Brand name contracts for photo id equipment and supplies are expected to have \$20,000 usage annually. This usage amount may be waived in whole or in part due to extenuating circumstances, in the state's best interest. The Office of State Procurement will consider contract purchases from both state agencies and political subdivisions.

**Bidders should submit** with their bid response the most recent published commercial price list and their GSA price schedule (if one exists) covering all items bid. In the event that a printed published price list is not available, a typed, signed and notarized list of prices covering all items bid should be submitted. If not submitted with the bid, this information shall be provided within ten (10) days of the request. Prices bid may not exceed the commercial price list or GSA prices in order for the item(s) to be awarded. Any terms and conditions contained in the published price list or GSA price list will not be applicable to the state's contract unless specifically stated.

**All or None Award.** Award to be made on an all-or-none basis to the overall low bidder meeting the specifications. The State of Louisiana reserves the right to reject individual line items from the award



**A bidder** who is not the manufacturer of the products bid shall be authorized by the manufacturer to bid and sell the particular products. A signed letter from the manufacturer certifying that the bidder has the proper authorization to bid and sell the products may be required. If required, the information shall be provided within seven (7) days of the request.

**Contract Performance Evaluation.** In an effort to improve our contracts to meet the needs of the agencies we serve, the contractor's performance will be monitored. Agencies feedback will be requested regarding customer service, delivery, product quality, billing, overall effectiveness of the contract, and any needed changes. Their responses will be considered in determining our options for renewals or revisions and rebidding. To view the content of the contract performance evaluation form, go to

<http://www.doa.la.gov/osp/agencycenter/forms/submit/contrperformance.pdf>, or call for a copy.

Agency reports of the deficient performance will be appropriately addressed during the contract period.

**Compliance with Civil Rights Laws.** By submitting and signing this solicitation, the bidder agrees to abide by the requirements of the following as applicable : Title VI and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Act of 1975, and bidder agrees to abide by the requirements of the Americans with Disabilities Act of 1990. Bidder agrees not to discriminate in its employment practices, and will render services under any contract entered into as a result of this solicitation, without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, veteran status, political affiliation, disability or age in any matter relating to employment. Any act of discrimination committed by bidder, or failure to comply with these statutory obligations when applicable, shall be grounds for termination of any contract entered into as a result of this solicitation.

**Contractual Period.** The State of Louisiana intends to award all items for an initial period, not to exceed twelve (12) months. Delays in awarding, beyond the anticipated starting date, may result in a change in the contract period. If the situation occurs, an award may be made for less than twelve (12) months.

**Renewals.** At the option of the State of Louisiana and acceptance by the contractor, this contract may be extended for two additional twelve (12) month periods at the same price, terms and conditions. Total contract time may not exceed thirty-six (36) months.

**Quantities.** This is an open-ended requirements contract. Quantities shown are based on the previous contract usage or estimates. Where usage is not available, a quantity of 1 indicates a lack of history on this item. The successful bidder must supply at bid prices actual requirements as ordered whether the total of such requirements is more or less than the quantities shown.

**Increase/Decrease.** The above quantities are estimated to be the amount needed. In the event a greater or lesser quantity is needed, the right is reserved by the State of Louisiana to increase or decrease the amount, at the unit price stated in the bid.

**Orders.** All state agencies are to issue contract purchase orders for the items required, as and when needed. Political subdivisions of the state and quasi agencies who have been authorized to purchase from contracts made by the Office of State Procurement, are to issue their regular purchase orders directly to the supplier, making reference to the contract and item number.

**Non-Exclusive Contract.** This agreement is non-exclusive and shall not in any way preclude State Agencies from entering into similar agreements and/or arrangements with other vendors or from acquiring similar, equal, or like goods and/or services from other entities or sources.

This bid is for a brand name contract. Therefore, all items bid must be the brand name specified. Alternate brands will not be considered.

**Indemnification and Limitation of Liability.** Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under the contract.

Contractor shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the State from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by the Contractor, its agents, employees, partners or subcontractors, in the performance of the contract without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the State.

Contractor shall indemnify, defend and hold the State harmless, ***without limitation***, from and against any and all damages, expenses (including reasonable attorneys' fees), claims judgments, liabilities and costs which may be fully assessed against the State in any action for infringement of a United States Letter Patent with respect to the products, materials or services furnished by the Contractor under its bid response and the contract, or of any copyright trademark, trade secret or intellectual property right, provided that the State shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of the Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State may require the Contractor at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner of Administration shall require.

The Contractor shall not be obligated to indemnify that portion of a claim or dispute based upon: (i) the State's unauthorized modification or alteration of the products or materials; (ii) the State's use of the products or materials in combination with other products or materials not furnished by the Contractor; (iii) the State's use of the products or materials in other than the specified operating conditions and environment.

In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion as the state's exclusive remedy to take action no later than six (6) months after the issuance of an injunction in the following order of precedence: (i) to procure for the State the right to continue using such item(s) or part(s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the State up to the dollar amount of the Contract. Any injunction that is issued against the State which prevents the State from utilizing the Contractor's product in excess of six (6) months and for which the contractor has not obtained for the State or provided to the State one of the alternatives set forth in the foregoing sentence is cause for the State to terminate the Contract. In the event of such termination, the State will not be obligated to compensate the Contractor for any costs incurred by the Contractor.

For all other claims against the Contractor where liability is not otherwise set forth in the contract as being "without limitation", and regardless of the basis on which the claim is made, the Contractor's liability **for direct damages, shall be the greater of \$100,000, the dollar amount of the products or materials, or two (2) times**

**the charges for services rendered by the Contractor under the contract.** Unless otherwise specifically enumerated herein mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records, even if the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.

The State may, in addition to other remedies available to it at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.

**Insurance Types and Amounts.** Contractor agrees to provide the State of Louisiana with Certificates of adequate insurance indicating coverage as required herein.

Insurance shall be placed with insurers with an A.M. Best's rating of no less than A-: VI. This rating requirement shall be waived for Worker's Compensation coverage only.

**Contractor's Insurance:** The Contractor shall not commence work under the contract until he has obtained all insurance required herein. Certificates of Insurance, fully executed by officers of the Insurance Company written or countersigned by an authorized Louisiana agency, shall be filed with the State of Louisiana for approval. The Contractor shall not allow any sub-Contractor to commence work on his subcontract until all similar insurance required for the subcontractor has been obtained and approved. If so requested, the Contractor shall also submit copies of insurance policies for inspection and approval of the State of Louisiana before work is commenced. Said policies shall not hereafter be canceled, permitted to expire, or be changed without thirty (30) days' notice in advance to the State of Louisiana and consented to by the State of Louisiana in writing and the policies shall so provide.

**Compensation Insurance:** Before any work is commenced, the Contractor shall take out and maintain during the life of the contract, Workers' Compensation Insurance for all of the Contractor's employees employed at the site of the project. In case any work is sublet, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in work under the contract at the site of the project is not protected under the Workers' Compensation Statute, the Contractor shall provide for any such employees, and shall further provide or cause any and all subcontractors to provide Employer's Liability Insurance for the protection of such employees not protected by the Workers' Compensation Statute.

**Commercial General Liability Insurance:** The Contractor shall take out and maintain during the life of the contract such Commercial General Liability Insurance which shall protect him, the State, and any subcontractor during the performance of work covered by the contract from claims or damages for personal injury, including accidental death, as well as for claims for property damages, which may arise from operations under the contract, whether such operations be by himself or by a subcontractor, or by anyone directly or indirectly employed by either of them, or in such a manner as to impose liability on the State. Such insurance shall name the State as additional insured for claims arising from or as the result of the operations of the Contractor or his subcontractors. In the absence of specific regulations, the amount of coverage shall be as follows: Commercial General Liability Insurance, including bodily injury, property damage and contractual liability, with combined single limits of \$1,000,000.

**Insurance Covering Special Hazards:** Special hazards as determined by the State shall be covered by rider or riders in the Commercial General Liability Insurance Policy or policies herein elsewhere required to be furnished by the Contractor, or by separate policies of insurance in the amounts as defined in any Special Conditions of the contract included therewith.

**Licensed and Non-Licensed Motor Vehicles:** The Contractor shall take out and maintain during the life of the contract, Automobile Liability Insurance in an amount not less than combined single limits of \$500,000 per occurrence for bodily injury/property damage. Such insurance shall also cover the use of any non-licensed motor vehicles engaged in operations within the terms of the contract on the site of the work to be performed thereunder, unless such coverage is included in insurance elsewhere specified.

**Subcontractor's Insurance:** The Contractor shall require that any and all subcontractors, which are not protected under the Contractor's own insurance policies, take and maintain insurance of the same nature and in the same amounts as required of the Contractor.

### **Insurance Requirements for Contractors:**

The Contractor shall purchase and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

#### **A. Minimum Scopes and Limits of Insurance**

##### **Workers Compensation**

Workers Compensation insurance shall be in compliance with the Workers Compensation law of the State of the Contractor's headquarters. Employers Liability is included with a minimum limit of \$500,000 per accident/per disease/per employee. If work is to be performed over water and involves maritime exposure, applicable LHWCA, Jones Act, or other maritime law coverage shall be included and the Employers Liability limit increased to a minimum of \$1,000,000. A.M. Best's insurance company rating requirement may be waived for workers compensation coverage only.

##### **Commercial General Liability**

Commercial General Liability insurance, including Personal and Advertising Injury Liability, shall have a minimum limit per occurrence of \$1,000,000 and a minimum general aggregate of \$2,000,000. The Insurance Services Office (ISO) Commercial General Liability occurrence coverage form CG 00 01 (current form approved for use in Louisiana), or equivalent, is to be used in the policy. Claims-made form is unacceptable.

##### **Automobile Liability**

Automobile Liability Insurance shall have a minimum combined single limit per occurrence of \$1,000,000. ISO form number CA 00 01 (current form approved for use in Louisiana), or equivalent, is to be used in the policy. This insurance shall include third-party bodily injury and property damage liability for owned, hired and non-owned automobiles.

#### **B. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and accepted by the Agency. The Contractor shall be responsible for all deductibles and self-insured retentions.

#### **C. Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

The Agency, its officers, agents, employees and volunteers shall be named as an additional insured as regards negligence by the contractor. ISO Form CG 20 10 (current form approved for use in Louisiana), or equivalent, is to be used when applicable. The coverage shall contain no special limitations on the scope of protection afforded to the Agency.

The Contractor's insurance shall be primary as respects the Agency, its officers, agents, employees and volunteers. Any insurance or self-insurance maintained by the Agency shall be excess and non-contributory of the Contractor's insurance.

Any failure of the Contractor to comply with reporting provisions of the policy shall not affect coverage provided to the Agency, its officers, agents, employees and volunteers.

The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the policy limits.

## 2. Workers Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Agency, its officers, agents, employees and volunteers for losses arising from work performed by the Contractor for the Agency.

## 3. All Coverages

Coverage shall not be canceled, suspended, or voided by either party (the Contractor or the insurer) or reduced in coverage or in limits except after 30 days written notice has been given to the Agency. Ten-day written notice of cancellation is acceptable for non-payment of premium. Notifications shall comply with the standard cancellation provisions in the Contractor's policy.

Neither the acceptance of the completed work nor the payment thereof shall release the Contractor from the obligations of the insurance requirements or indemnification agreement.

The insurance companies issuing the policies shall have no recourse against the Agency for payment of premiums or for assessments under any form of the policies.

Any failure of the Contractor to comply with reporting provisions of the policy shall not affect coverage provided to the Agency, its officers, agents, employees and volunteers.

## D. Acceptability of Insurers

All required insurance shall be provided by a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located. Insurance shall be placed with insurers with an A.M. Best's rating of **A-: VI or higher**. This rating requirement may be waived for workers compensation coverage only.

If at any time an insurer issuing any such policy does not meet the minimum A.M. Best rating, the Contractor shall obtain a policy with an insurer that meets the A.M. Best rating and shall submit another Certificate of Insurance as required in the contract.

## E. Verification of Coverage

Contractor shall furnish the Agency with Certificates of insurance reflecting proof of required coverage. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificates are to be received and approved by the Agency before work commences and upon any contract renewal thereafter.

In addition to the Certificates, Contractor shall submit the declarations page and the cancellation provision endorsement for each insurance policy. The Agency reserves the right to request complete certified copies of all required insurance policies at any time.

Upon failure of the Contractor to furnish, deliver and maintain such insurance as above provided, this contract, at the election of the Agency, may be suspended, discontinued or terminated. Failure of the Contractor to purchase and/or maintain any required insurance shall not relieve the Contractor from any liability or indemnification under the contract.

#### **F. Subcontractors**

Contractor shall include all subcontractors as insureds under its policies OR shall be responsible for verifying and maintaining the Certificates provided by each subcontractor. Subcontractors shall be subject to all of the requirements stated herein. The Agency reserves the right to request copies of subcontractor's Certificates at any time.

#### **G. Workers Compensation Indemnity**

In the event Contractor is not required to provide or elects not to provide workers compensation coverage, the parties hereby agree that Contractor, its owners, agents and employees will have no cause of action against, and will not assert a claim against, the State of Louisiana, its departments, agencies, agents and employees as an employer, whether pursuant to the Louisiana Workers Compensation Act or otherwise, under any circumstance. The parties also hereby agree that the State of Louisiana, its departments, agencies, agents and employees shall in no circumstance be, or considered as, the employer or statutory employer of Contractor, its owners, agents and employees. The parties further agree that Contractor is a wholly independent contractor and is exclusively responsible for its employees, owners, and agents. Contractor hereby agrees to protect, defend, indemnify and hold the State of Louisiana, its departments, agencies, agents and employees harmless from any such assertion or claim that may arise from the performance of this contract.

#### **H. Indemnification/Hold Harmless Agreement**

Contractor agrees to protect, defend, indemnify, save, and hold harmless, the State of Louisiana, all State Departments, Agencies, Boards and Commissions, its officers, agents, servants, employees, and volunteers, from and against any and all claims, damages, expenses, and liability arising out of injury or death to any person or the damage, loss or destruction of any property which may occur, or in any way grow out of, any act or omission of Contractor, its agents, servants, and employees, or any and all costs, expenses and/or attorney fees incurred by Contractor as a result of any claims, demands, suits or causes of action, except those claims, demands, suits, or causes of action arising out of the negligence of the State of Louisiana, all State Departments, Agencies, Boards, Commissions, its officers, agents, servants, employees and volunteers.

Contractor agrees to investigate, handle, respond to, provide defense for and defend any such claims, demands, suits, or causes of action at its sole expense and agrees to bear all other costs and expenses related thereto, even if the claims, demands, suits, or causes of action are groundless, false or fraudulent.

#### **I. No Third Party Beneficiaries**

Both Bidder/Contractor and the State understand and agree that the terms and conditions of this contract are not intended to nor do they confer any rights, benefits, or remedies upon any person or entity other than the parties hereto.

**Purchase of equipment.** Shall be inclusive of three (3) hours of operator training, operator instructional manuals, installation, delivery, freight, and removal of associated debris.

**Maintenance.** The Successful vendor is required to provide statewide service inclusive, but not necessarily limited to the following:

1. The full service maintenance cost is inclusive of all cost for full preventative maintenance, emergency calls, parts, labor, travel and all other charges required to keep the equipment fully operational and maintained in good working condition.
2. Equipment maintained by successful bidder's authorize representative under prior warranty and/or maintenance service agreements will not be subject to charges for inspections and/or repairs necessary to bring equipment up to good operating condition except in instances where repairs are due to abuse and/or neglect on the part of operating personnel.
3. Machines being placed under maintenance service shall be in good operating condition and shall be subject to prior inspection at the option of the successful bidder, except as stated above.
4. Maintenance agreement shall include both preventative maintenance and remedial maintenance (unscheduled repair service). A minimum of two scheduled preventative maintenance visits are to be made within a year.
5. Maintenance shall be performed during normal working hours (8:00 A.M. to 5:00 P.M., Monday through Friday, excluding holidays).
6. Contract vendor service personnel must contact authorized personnel at the using agency prior to performing service inspections.
7. Contract vendor shall be available on-site within sixteen (16) working hours, excluding holidays.
8. Payment will be made for the number of months in which service was actually rendered. Payment shall be made in arrears: one-half after the first scheduled preventative maintenance visit, and one-half after the second.
9. For discontinuation of maintenance prior to the end of the contract period, the using agency will be required to give thirty (30) days written notice except for the reasons of (A) Non-appropriation of funds by the legislature, or (B) The end of the maintenance period identified in the release order, or (C) Default of the successful bidder, or (D) end of the fiscal year.

**Warranty.** The contractor shall provide the standard warranty offered by the manufacturer for the products bid.